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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA  
AT ANCHORAGE

STANTEC CONSULTING SERVICES INC.,

Plaintiff,

v.

QUANTA POWER GENERATION, INC.,

Defendant.

NO.

COMPLAINT

**I. INTRODUCTION**

This dispute arises from engineering, procurement and construction of the George M. Sullivan Plant 2A Expansion Project (“the Project”) owned by Municipal Light & Power (“ML&P”) in Anchorage, Alaska. The Project included the engineering, procurement and construction of a combined cycle power plant to provide approximately 120 megawatts of electric power. Quanta Power Generation, Inc. (“QPG”), was the engineering, procurement and construction (“EPC”) contractor under a contract with ML&P. Stantec Consulting Services Inc. (“Stantec”) designed portions of the project under a subcontract with QPG. Stantec suffered damages including unpaid change orders and additional labor costs through lost productivity on account of QPG’s mismanagement of the project and failure to administer and perform the work consistent with the contract and accepted industry standards. QPG’s mismanagement of the project includes, by way of example, failure to issue a formal Request

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1 for Proposals defining the project requirements, QPG's specific responsibilities and scope of  
2 work; the scope and responsibilities of Quanta's multiple engineering consultants, contractors  
3 and its equipment suppliers/vendors; failure to coordinate and integrate the activities of its  
4 various consultants, contractors and vendors into an overall project critical path schedule  
5 consistent with the contract and industry standards; failure to timely coordinate and expedite  
6 critical vendor data required to support Stantec's design efforts; and ordering Stantec to  
7 provide drawings out of sequence prior to receipt of critical vendor data. Stantec seeks to  
8 recover the damages caused by QPG.

## 9 **II. PARTIES**

10 1. Stantec Consulting Services Inc. ("Stantec") is a New York corporation with a  
11 principle place of business at 482 Payne Rd., Scarborough, Maine.

12 2. Quanta Power Generation, Inc. ("QPG"), is a Delaware corporation with a  
13 principle place of business at 5445 DTC Parkway, Suite 1200, Greenwood Village, Colorado.

## 14 **III. JURISDICTION**

15 3. This Court has jurisdiction of this matter pursuant to 28 U.S.C. § 1332(a)(1)  
16 and (c)(1) as the parties are citizens of different states and the amount in controversy exceeds  
17 the sum of \$75,000, exclusive of interest and costs.

## 18 **IV. VENUE**

19 4. Venue is appropriate in this district pursuant to 28 U.S.C. § 1391(b)(2) as a  
20 substantial part of the events or omissions giving rise to the claim occurred, and a substantial  
21 part of the property is situated, in this district.

22 5. Venue is appropriate in this district as the parties agreed any lawsuit arising  
23 from their contract may be filed in this court.

## 24 **V. FACTUAL ALLEGATIONS**

25 6. In August 2013, QPG contacted Stantec to discuss a potential opportunity to  
26 provide engineering services on the Project.

1           7.     On October 3, 2013, Stantec and QPG met to discuss the Project.

2           8.     At that meeting Stantec presented to QPG a series of binders detailing its

3 proposed approach to the Project.

4           9.     QPG provided Stantec no formal request for proposal or documents outlining

5 QPG's requirements for the Project.

6           10.    QPG provided Stantec no documents outlining Stantec's anticipated scope of

7 work at that time.

8           11.    On or about December 1, 2013, QPG and Stantec signed a Limited

9 Engineering Release Agreement.

10          12.    On December 10, 2013, QPG entered into a fixed-price EPC contract with

11 ML&P for the Project ("EPC Contract").

12          13.    According to the Schedule of Values appended to the EPC Contract, the total

13 contract value was \$199,835,032.

14          14.    As a fixed-price contract, QPG was responsible for any cost overruns resulting

15 from its own failure to manage the work efficiently.

16          15.    QPG's responsibilities under the EPC Contract included, without limitation,

17 the following items:

18               a.     providing a turnkey, fully-operational project for the total contract

19 value in accordance with the terms of the contract, applicable industry standards, and prudent

20 industry practice, and meeting the terms of the specifications and project guarantees;

21               b.     providing detailed design and engineering of the Project, including

22 equipment and material specifications, all required civil works and plant structures, drawings,

23 schedule, software, and coordination of engineering efforts of subcontractors, as more fully

24 set forth in the specifications; and

25               c.     procuring and handling of material and equipment to be incorporated

26 into the project, including expediting.

1           16.     On or about February 4, 2014, QPG and Stantec executed Change Order No. 1  
2 to the Limited Engineering Release Agreement.

3           17.     Stantec performed services pursuant to Change Order No. 1.

4           18.     On April 7, 2014, QPG and Stantec entered into a Subcontract Agreement for  
5 Stantec to provide engineering services on the Project.

6           19.     The base contract amount of the Subcontract Agreement was \$7,356,000.00  
7 which included the prior Limited Engineering Release amount of \$913,076.26.

8           20.     The EPC Contract was incorporated into the Subcontract Agreement subject to  
9 the terms and conditions of the Subcontract Agreement.

10          21.     The scope of Stantec's work was defined in the Subcontract Agreement as  
11 Subcontract Work with reference to Stantec's Scope of Work attached as Annex 1 to the  
12 Subcontract Agreement.

13          22.     The Subcontract Agreement further referenced the EPC Contract and  
14 specifications as necessary to perform the Subcontract Work and in the event of conflict then  
15 the Subcontract Scope of Work shall govern.

16          23.     QPG retained responsibility to prepare and maintain the project schedule,  
17 coordinate the engineering efforts of its subcontractors, and procure and expedite equipment  
18 and materials.

19          24.     Under the terms of the Subcontract Agreement, QPG retained the right to  
20 direct Stantec to perform additional work outside the scope of the Subcontract Agreement  
21 subject to additional compensation and/or schedule relief to Stantec.

22          25.     QPG issued change orders to Stantec to perform work outside the scope of the  
23 Subcontract Agreement.

24          26.     QPG failed, neglected, and refused to pay Stantec on account of change orders  
25 totaling in excess of \$800,000.  
26

1           27.     QPG failed to prepare and maintain the project schedule in accordance with  
2 applicable industry standards and prudent industry practice.

3           28.     QPG failed to procure, coordinate and expedite equipment, materials, and  
4 critical vendor information to support the project schedule in accordance with applicable  
5 industry standards and prudent industry practice.

6           29.     The Subcontract Agreement provided for liquidated damages of \$500/day tied  
7 to specific drawings “Deliverables” and specific dates “Completion Date.”

8           30.     The Subcontract Agreement provided that the “Completion Date is based on  
9 receipt of final, certified vendor drawings six weeks prior to the Completion Date.  
10 Subcontractor shall receive day for day extension of the Completion Date for late vendor  
11 drawings, delays caused by Contractor or other subcontractors or delays caused by the  
12 Owner.”

13          31.     QPG failed to issue final certified vendor drawings in accordance with the  
14 schedule.

15          32.     QPG ordered Stantec to provide drawings before it had complete vendor  
16 drawings.

17          33.     As a result of QPG’s failure to prepare and maintain the project schedule, and  
18 procure and expedite equipment, materials, and vendor information in accordance with the  
19 contract documents and accepted industry standards, Stantec suffered direct damages in the  
20 form of lost productivity in an amount exceeding \$1.6 million.

21                               **VI.     FIRST CAUSE OF ACTION**  
22                                       **(Breach of Contract)**

23          34.     Stantec realleges and incorporates by reference paragraphs 1 through 33 as if  
24 fully set forth herein.

25          35.     Stantec has performed all conditions, covenants, obligations, and promises  
26 required to be performed on its part under the herein referenced change orders, or has been

excused from so doing by the actions and or omissions of defendants or by operation of law, but has not been paid in full for its work.

36. Stantec incurred various damages, including delay and impact damages, changes to the Project causing added costs and time, directions requiring Stantec to work out of the normal and industry standard sequence causing added costs and time, late payment of progress payments, wage and material escalation costs, and other similar damages. The causes of such damages were not the fault of or caused by Stantec, and said damages increased or contributed to the value of the work on the Project. As a result of the various damages that Stantec incurred, the total value of the work rendered by Stantec increased.

37. Defendants have breached the Subcontract Agreement by failing and refusing to timely pay Stantec for all labor and material provided in connection with the Project.

38. As a direct and proximate result of defendants' breach, Stantec has suffered damage in the amount of at least \$2.4 million, the exact amount to be proven at trial, together with interest thereon at the maximum legally permissible rate.

## **VII. SECOND CAUSE OF ACTION (Unjust Enrichment and Quantum Meruit)**

39. Stantec realleges and incorporates by reference paragraphs 1 through 38 as if fully set forth herein.

40. Alternatively, to the extent it is asserted or established that Stantec provided extra services, labor and materials to the Project at the request of QPG and such labor and materials were received and accepted by QPG, which substantially improved and benefited the Project and which QPG knew or should have known Stantec expected to be paid for, Stantec is entitled to recover those amounts.

41. QPG is indebted to Stantec for at least \$2.4 million the reasonable value of services, the exact amount to be proven, together with interest thereon at the maximum legally permissible rate.

1 **VIII. THIRD CAUSE OF ACTION**  
2 **(Breach of Implied Covenant of Good Faith and Fair Dealing)**

3 42. Stantec realleges and incorporates by reference paragraphs 1 through 41 as if  
4 fully set forth herein.

5 43. QPG directed Stantec to perform work on the Project and then refused to  
6 compensate Stantec for that work.

7 44. As a direct and proximate result, QPG breached the implied covenant of good  
8 faith and fair dealing.

9 45. Stantec has incurred damages in excess of \$2.4 million, the exact amount to be  
10 proven at trial.

11 **IX. PRAYER FOR RELIEF**

12 WHEREFORE, Stantec Consulting Services Inc. prays for judgment on all causes of  
13 action to be entered in its favor against QPG as follows:

- 14 1. For the principal sum of at least \$2.4 million;  
15 2. For pre and post judgment interest at the maximum legal rate from a date  
16 according to proof;  
17 3. For costs of suit incurred herein, including but not limited to reasonable  
18 attorneys' fees; and  
19 4. For such other and further relief as the Court may deem just and proper.

20 Dated this 1<sup>st</sup> day of August, 2016.

21 s/ Terence J. Scanlan

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